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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/685,236	10/14/2003	David E. Francischelli	P-9716.02	4637
27581	7590 05/17/2005		EXAMINER	
MEDTRONIC, INC.			PEFFLEY, MICHAEL F	
710 MEDTRO	ONIC PARKWAY NE			
MS-LC340			ART UNIT	PAPER NUMBER
MINNEAPOLIS, MN 55432-5604		•	3739	

Please find below and/or attached an Office communication concerning this application or proceeding.

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	Application No.	Applicant(s)				
Office Antique Communication	10/685,236	FRANCISCHELLI ET AL.				
Office Action Summary	Examiner	Art Unit				
	Michael Peffley	3739				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).						
Status						
1)⊠ Responsive to communication(s) filed on 14 Oc	ctober 2003.					
<u> </u>	action is non-final.					
3) Since this application is in condition for allowan	<u> </u>					
Disposition of Claims						
4) Claim(s) 1-19 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) 1-19 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement.						
Application Papers 9)⊠ The specification is objected to by the Examiner	r					
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119						
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 						
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 1/23/04.	4) Interview Summary (Paper No(s)/Mail Da 5) Notice of Informal Pa	(PTO-413) te atent Application (PTO-152)				

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Specification

The disclosure is objected to because of the following informalities: the "Related US Application Data" section should be amended to include the most current status (i.e. US Patent Number) for the related application.

Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-19 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,663,627. Although the conflicting claims are not identical, they are not patentably distinct from each other because only minor differences exist between the instant application claims and the patented claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art discloses several means of active feedback, including impedance and temperature feedback, wherein active measurement signals are used to control the output of an ablation generator (as is generally known in the art). Swanson et al. (6,183,468) disclose the use of an EKG measurement means to determine if ablation depth is sufficient during an ablation procedure. This measurement is made after an ablation cycle is completed, then further ablation is provided if necessary. There is no control circuitry connected to the ablation generator and the electrogram measuring means to afford instant feedback to the generator based on measured electrogram signals. Various other prior art systems (e.g. Desai et al 5,215,103) teach the use of EKG signals to map tissue and provide indication of the tissue in need of ablation. Again, there is no control circuitry means connected between the ablation generator and the EKG measurement means to provide direct feedback to the generator based on the measured electrogram signals. Similarly, Cosman (5,233,515) disclose that EKG signals may be displayed and also indicate that a change in the EKG signal may indicate lesion progression, but fails to teach the control circuitry to control the ablation generator in response to the EKG signal. With regard to the method claims, the prior art fails to disclose the step of monitoring electrogram amplitude of tissue while applying ablation energy, and controlling (i.e. terminating) application of ablation energy responsive to an output of the electrogram amplitude.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Peffley whose telephone number is (571) 272-4770. The examiner can normally be reached on Mon-Fri from 6am-3pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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May 13, 2005